

**BAKER
&
HOSTETLER LLP
COUNSELLORS AT LAW**

WASHINGTON SQUARE, SUITE 1100 • 1050 CONNECTICUT AVENUE, N.W. • WASHINGTON, D.C. 20036-5304 • (202) 861-1500
FAX (202) 861-1783 • TELEX 2357276
WRITER'S DIRECT DIAL NUMBER
(202) 861-1504

June 13, 1997

Chairman of the Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463
Attention: Jennifer Henry
General Counsel Office


Re: MUR 4634

Dear Chairman McGarry:

This letter and accompanying material are in response to the Federal Election Commission ("Commission") letter of May 5, 1997. The letter stated that the Commission had received a complaint which indicates that American Free Enterprise PAC may have violated the Federal Election Campaign Act of 1971, as amended ("Act"). The Commission letter was generated by a complaint filed by a Mr. James Anderson. The enclosed affidavit clearly demonstrates that no further action by the Commission should be taken in this matter.

The enclosed affidavit is from an individual with personal knowledge of the circumstances which provide the basis of Mr. Anderson's letter. Mr. Anderson's letter is fatally flawed. It is not based upon Mr. Anderson's personal knowledge. It is solely a repeat of a *Wall Street Journal* story, drawing conclusions which are unsupported by the facts. Mr. Bauer's affidavit is clear and absolutely unequivocal. Based upon the facts as set forth in Mr. Bauer's affidavit, there is no legal analysis on which the Commission has any basis for further action in this matter in regard to American Free Enterprise PAC.

Sincerely yours,



E. Mark Braden

EMB/rvn

Enclosure

EMB:1735:85919:97001:FECCHAIR.AFE

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FEDERAL ELECTION COMMISSION
OFFICE OF THE CHIEF COUNSEL

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AFFIDAVIT

MUR 4634

- (1) I, David Bauer, reside at Granite Bay, California. I am the Treasurer of the American Free Enterprise PAC.
- (2) The American Free Enterprise PAC is a multi-candidate political committee committed to supporting candidates who believe in free market principles. As the Treasurer, I have the responsibility for determining to which candidates for elective office American Free Enterprise PAC will contribute.
- (3) The American Free Enterprise PAC did contribute \$3,500.00 to the Sam Brownback for United States Senate Committee on 7/29/96, and \$1,000.00 on 7/12/96.
- (4) The American Free Enterprise PAC does not accept earmarked contributions. The American Free Enterprise PAC has never accepted a contribution which was earmarked or otherwise directed to a particular candidate or committee from any contributor.
- (5) The American Free Enterprise PAC received a contribution of \$2,500 from John Stauffer and a contribution of \$2,500 from Ruth Stauffer on 7/19/96. *DB*
This contribution was not earmarked in any manner. I received this contribution with no designation, instruction or encumbrance from the contributor, Mr. & Mrs. John Stauffer, direct or indirect, expressed or implied, oral or written, which resulted in all or any part of that contribution or expenditure being made to or expended on behalf of the Brownback campaign. This contribution was received without any designation instruction or encumbrance as to how American Free Enterprise PAC should use the contribution.

David Bauer

David Bauer

SUBSCRIBED AND SWORN To before me

This 11 day of June, 1997

Ronny A. Bechtel
Notary Public

My Commission Expires: 12-2-97

